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TERRI SCHIFFMAN  
Name

Terri Schiffman  
Signature

9/1/06  
Date

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Xia, et al.

Serial No.: 10/530,830 - Case No.: 21113P

Filed: 04/08/05

For: ASSAY METHODS FOR STATE-DEPENDENT  
CALCIUM CHANNEL MODULATORS

Art Unit:

1743

Examiner:

T/B/A

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Office of PCT Legal Administration  
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8 SEP 2006  
Legal Staff  
International Division

RENEWED PETITION UNDER 37 CFR 1.10

Sir:

Enclosed herewith is Applicant's request for reconsideration of a petition to correct the filing date.

Enc.

Respectfully submitted,

By Vineet Kohli

Vineet Kohli  
Reg. No. 37,003  
Attorney for Applicant

MERCK & CO., INC.  
P.O. Box 2000  
Rahway, New Jersey 07065-0907  
(732) 594-3889

Date: September 1, 2006

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CERTIFICATE OF MAILING

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Mail Stop PCT  
Commissioner for Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

COMMUNICATION – RENEWED PETITION UNDER 37 CFR 1.10

Sir:

Responsive to a decision on Petition under 37 CFR 1.10 (c) and (d) mailed July 6, 2006, having a TWO (2) month period of response that expires September 6, 2006. Applicants respectfully request reconsideration of their petition.

Remarks begin on page 2.

## REMARKS

This renewed petition less than 37 CFR 1.10 is being filed further to Applicants previous request for a Corrected Filing receipt filed on or about October 25, 2005. In response to such request, the patent Office in considering Applicants petition dismissed the same on the grounds that the applicant's previous failed to provide a copy of the expresses mail label.

By way of this petition, Applicants respectfully request a "Corrected Filing Receipt" that specifically indicates the filing date of April 8, 2005 and NOT April 9, 2005 as is currently indicated.

In support of the above request, Applicants attach the following;

- A Copy of "Pickup Service Statement" from the U.S Post Office." (Exhibit 1).
- A copy of an "Express Mail Corporate Account Mailing Statement" (Exhibit 2)
- A copy of the "Express mail" mailing label, (Exhibit 3)

### **Facts:**

The instant application was specifically mailed on FRIDAY, April 8, 2005. Support for this assertion becomes abundantly clear when examining Exhibit 1. As is the customary practice, the application as handed to the docket department on April 8, 2005. Sometime that day a representative from the United States Postal Service (USPS) (mail carrier) physically picked up the package containing the instant application bearing Express mail number EL989587142US and specifically signed in the box reserved for the USPS Signature, thereby attesting to its pickup. See item number 6 of Exhibit 1. As well, the same representative dated the pick up as April 8, 2005 as is indicated in item 7, marked "Date & Time of Pickup."

Further corroboration for Applicants assertion that the application was filed on April 8, 2005 is evident from Exhibit 2, which is an "Express mail Corporate Account Mailing Statement" that was completed by and provided by the USPS. Therein, Label No. EL989587142US is specifically identified as being picked up by the USPS on April 8, 2005.

Also attached is a copy of the "Express Mail" mailing label as requested by the Attorney Advisor. See decision dated July 6, 2006. A review of this document shows that the Date-in area is indicated as "4/9/05". Applicant's respectfully submit that the entry "4/9/05" is incorrect for the reasons that follow.

(1) It is contrary to the mail carrier's signature and date of pick-up as indicated by Exhibit 1. Therein, the facts establish that the mail carrier picked up the express mail package labeled EL989587142US on April 8, 2005 which is corroborated by his signature and date.


(2) The "Express Mail Corporate Account Mailing Statement" shows no activity for April 9, 2005. That the "date-in" marked in Exhibit 3 is an error is further corroborated by Exhibit 2, which specifically shows NO PICK UP from Applicants' facility on April 9, 2005 (Saturday) and April 10, 2005 (Sunday). Indeed, the next entry after April 8 is April 11, 2005 which happened to be a Monday. Consequently, the lack of any activity on April 9 as indicated in Exhibit 2 further corroborates Applicant's assertion that the "date-in" should have been April 8, 2005 assuming that it corresponds to the date the package is actually picked up by the mail carrier.

For all the above reasons, Applicants respectfully request a "Corrected Filing Receipt" indicating the filing date of the instant application as being April 8, 2005.

Applicants further request a correction to the "Notice of Acceptance" under confirmation no. 2476 to indicate the date as April 8, 2005 (04/08/2005). Enclosed are copies of the Notice of Acceptance and Filing Receipt with the changes noted thereon.

Enc.

Respectfully submitted,

By 

Vineet Kohli

Reg. No. 37,003

Attorney for Applicant

MERCK & CO., INC.

P.O. Box 2000

Rahway, New Jersey 07065-0907

(732) 594-3889

Date: September 1, 2006

United States Postal Service

**Pickup Service Statement**

Express Mail, Global Express Guaranteed, Priority Mail, or Parcel Post

**1. Customer Information**

Customer Name

Company Name

MERCK & COMPANY INC

Address 1

PO BOX 2000

Address 2

City

RAHWAY

State

NJ

Zip + 4

07065-0900

**3. Payment Method**

☐ Check made payable to "Postmaster"

☐ Merchandise Return Label

☐ Express Mail Corporate Account No. or Federal Agency No.

☐ Postage Due Account

☐ Stamps or Metered Postage (Affix at right)

X070505

5. Customer Signature

*Long Schepisi*

PS Form 5541C October 2001

**2. Product Information**

Express Mail.....

Global Express Guaranteed.....

Priority Mail.....

Parcel Post.....  
(Domestic or International)

Estimated total weight  
of all packages.....  
(In pounds)

Quantity

6

**4. Affix Stamps or Meter Strip Here (If applicable)**

805/

✓ EL989586195US  
✓ EV421345056US  
✓ EV422539172US  
✓ EV4225400034US  
✓ EV660612735US

6. USPS Signature

*Clayton D. D.*

7. Date & Time of Pickup

4/8/05

1 - Finance

Received  
4/12/05

EXHIBIT 1



EXPRESS MAIL CORPORATE ACCOUNT  
MAILING STATEMENT

ACCOUNT NO: 070505

PERIOD: 04/01/05 - 04/30/05

DATE	CHARGE BACK	LABEL NUMBER	ORIG ZIP	DEST ZIP	ADJ # REF #	POSTAGE	FEES		DEPOSITS	WITH DRAWALS	GDA LEG
							PICKUP	DELIVERY			
BEGINNING	BALANCE:					3,797.54					
04/01/05		✓EL989586093US	07065	22313		13.65					
04/01/05		✓EL989586116US	07065	22313		13.65					
04/01/05		✓EV422540048US	07065	22313		17.85					
04/01/05		✓EV422540051US	07065	22313		13.65					
04/04/05		✓EL989586080US	07065	22313		17.85					
04/04/05		✓EL989591717US	07065	22313		13.65					
04/04/05		✓EV321985621US	07065	22313		13.65					
04/04/05		✓EV421341378US	07065	22313		17.85					
04/05/05		✓EL989586062US	07065	22313		17.85					
04/05/05		✓EL989586164US	07065	22313		17.85					
04/05/05		✓EL989586178US	07065	22313		17.85					
04/05/05		✓EL989590915US	07065	22313		13.65					
04/05/05		✓EL989591725US	07065	22313		13.65					
04/05/05		✓EV321988821US	07065	22313		17.85					
04/05/05		✓EV321988835US	07065	22313		17.85					
04/05/05		✓EV421342704US	07065	22313		13.65					
04/07/05		✓EK395161975US	07065	18901		17.85					
04/07/05		✓EL989586782US	07065	22313		13.65					
04/07/05		✓EV421342749US	07065	22313		13.65					
04/08/05		✓EK395161794US	07065	18964		17.85					
04/08/05		✓EL989586195US	07065	22313		17.85					
04/08/05		✓EL989587142US	07065	22313		13.65					
04/08/05		✓EV421345056US	07065	22313		17.85					
04/08/05		✓EV422539172US	07065	22313		17.85					
04/08/05		✓EV422540034US	07065	22313		13.65					
04/08/05		✓EV660612735US	07065	22313		27.30					
04/11/05		✓EV321988407US	07065	22313		13.65					
04/12/05		✓EL989586867US	07065	22313		13.65					
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04/12/05		✓EV422539212US	07065	22313		17.85					
04/13/05		✓EL989586941US	07065	22313		27.30					
04/13/05		✓EL989589744US	07065	22313		13.65					
04/13/05		✓EV421342050US	07065	22313		17.85					
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04/14/05		✓EV421344988US	07065	22313		13.65					
04/15/05		✓EL989586031US	07065	22313		17.85					
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04/19/05		✓EL989586796US	07065	22313		27.30					
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04/20/05		✓EL989586283US	07065	22313		17.85					
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04/20/05		✓EV321987018US	07065	22313		17.85					
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04/21/05		✓EL989591385US	07065	22313		13.65					
04/22/05		✓EL989586155US	07065	22313		17.85					
04/22/05		✓EL989586204US	07065	22313		17.85					
04/22/05		✓EL989586249US	07065	22313		17.85					
04/22/05		✓EL989586266US	07065	22313		17.85					
04/22/05		✓EL989586270US	07065	22313		17.85					
04/22/05		✓EV422539107US	07065	22313		13.65					
04/23/05		✓EK395161967US	18901	07065		13.65					
04/23/05		✓EK395161984US	18969	07065		17.85					
04/25/05		✓EL989586297US	07065	22313		17.85					
04/25/05		✓EL989587598US	07065	22313		13.65					
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04/25/05		✓EV422540025US	07065	22313		17.85					
04/26/05		✓EL989591371US	07065	22313		13.65					
04/26/05		✓EV421342721US	07065	22313		13.65					
04/26/05		✓EV660612390US	07065	22313		13.65					
04/27/05		✓EL989586938US	07065	22313		21.05					
04/27/05		✓EL989587607US	07065	22313		17.85					
04/27/05		✓EV321988852US	07065	22313		21.05					
04/28/05		✓EL989586915US	07065	22313		21.05					
04/28/05		✓EL989603809US	07065	22313		17.85					
04/28/05		✓EL989603812US	07065	22313		17.85					
04/28/05		ET980690394US	07065	07101		13.65					
04/28/05		ET980690417US	07065	19341		13.65					
04/28/05		ET980690425US	07065	94080		13.65					

EXHIBIT 2

MASTER

SERVICE

PAGE: 2

MAIL CORPORATE ACCOUNT  
STATEMENT

ACCOUNT NO: 070505

PERIOD: 04/01/05 - 04/30/05

DATE	CHARGE BACK	LABEL NUMBER	ORIG ZIP	DEST ZIP	ADJ * REF *	POSTAGE	FEES		DEPOSITS	WITH- DRAWALS	CDA LEG
							PICKUP	DELIVERY			
04/29/05	✓	EL989586218US	07065	22313		17.85					
04/29/05	✓	EL989586306US	07065	22313		17.85					
04/29/05	✓	EL989586924US	07065	22313		13.65					
04/29/05	✓	EL989590994US	07065	22313		13.65					
04/29/05	✓	EL989591005US	07065	22313		13.65					
04/29/05	✓	EV321988733US	07065	22313		13.65					
04/29/05	✓	EV421342267US	07065	22313		13.65					
04/29/05	✓	EV422539115US	07065	22313		13.65					
03/23/05		PKUP SERVICE	07065				25.00				
03/24/05		PKUP SERVICE	07065				12.50				
03/25/05		PKUP SERVICE	07065				12.50				
03/30/05		PKUP SERVICE	07065				12.50				
03/31/05		PKUP SERVICE	07065				12.50				
04/01/05		PKUP SERVICE	07065				12.50				
04/04/05		PKUP SERVICE	07065				12.50				
04/05/05		PKUP SERVICE	07065				12.50				
04/07/05		PKUP SERVICE	07065				12.50				
04/09/05		PKUP SERVICE	07065				12.50				
04/12/05		PKUP SERVICE	07065				12.50				
04/15/05		PKUP SERVICE	07065				12.50				
SUB-TOTAL:						1,309.55	162.50				
(A) TOTAL CHARGES :						1,309.55	162.50	0.00			
(B) TOTAL ADJUSTMENTS (*):						0.00	0.00	0.00			
(C) TOTAL REFUNDS (*):						0.00	0.00	0.00			
TOTAL (A + B - C):						1,309.55	162.50	0.00			
ENDING BALANCE:						2,325.49					



EL 989587142 US



**EXPRESS MAIL**

UNITED STATES POSTAL SERVICE

**Customer Copy**

Label 11-F, June 2002

**Post Office To Addressee**

**ORIGIN (POSTAL USE ONLY)**

PO ZIP Code <b>07065</b>	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> Second <input type="checkbox"/> Flat Rate Envelope <input type="checkbox"/>	Postage <b>\$13.65</b>
Date In Mo: <b>4</b> Day: <b>10</b> Year: <b>05</b>	Time In <input checked="" type="checkbox"/> 12 Noon <input checked="" type="checkbox"/> 3 PM <input type="checkbox"/> 6 PM	Return Receipt Fee
Weight lbs: <b>1.00</b> ozs: <b>00</b>	Int'l Alpha Country Code	COD Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials <b>WR</b>	Insurance Fee
Total Postage & Fees <b>\$13.65</b>		

**DELIVERY (POSTAL USE ONLY)**

Delivery Attempt Mo: Day: Time: <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Delivery Attempt Mo: Day: Time: <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Delivery Date Mo: Day: Time: <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
<input type="checkbox"/> <b>WAIVER OF SIGNATURE (Domestic Only)</b> Additional merchandise insurance is void if a waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.	
<input type="checkbox"/> <b>NO DELIVERY</b> <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	

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Express Mail Corporate Acct. No. **07065**

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/530,830	<del>04/09/2005</del> 04/08/2005	1743	700	21113P	7	14	4

DOCKETED

CONFIRMATION NO. 2476

210  
MERCK AND CO., INC  
P O BOX 2000  
RAHWAY, NJ 07065-0907

NOV 04 2005

CHRISTINE A. CUFFE

FILING RECEIPT



\*OC000000017071503\*

Date Mailed: 09/27/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Menghang Xia, Blue Bell, PA;  
Thomas M. Connolly, Lansdale, PA;  
Paul B. Bennett JR., New Hope, PA;  
Charles J. Cohen, Poway, PA;

*Incorrect  
Filing  
Date*

Power of Attorney: The patent practitioners associated with Customer Number 210.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US03/31822 10/09/2003  
which claims benefit of 60/418,017 10/10/2002

Foreign Applications

Projected Publication Date: 12/29/2005

Non-Publication Request: No

Early Publication Request: No

Title

Assay methods for state-dependent calcium channel agonists/antagonists

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10/4/05

21113P



## UNITED STATES PATENT AND TRADEMARK OFFICE

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 Alexandria, Virginia 22313-1450  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/530,830	Menghang Xia	21113P

INTERNATIONAL APPLICATION NO.
-------------------------------

PCT/US03/31822

I.A. FILING DATE	PRIORITY DATE
10/09/2003	10/10/2002

210  
 MERCK AND CO., INC  
 P O BOX 2000  
 RAHWAY, NJ 07065-0907

DOCKETED

OCT 04 2005

CONFIRMATION NO. 2476

371 ACCEPTANCE LETTER



\*OC000000017071504\*

Date Mailed: 09/27/2005

## NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

<u>04/09/2005</u>	<u>04/10/2005</u>
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 04/09/2005
- Copy of the International Search Report filed on 04/09/2005
- Copy of IPE Report filed on 04/09/2005
- Oath or Declaration filed on 04/09/2005
- U.S. Basic National Fees filed on 04/09/2005
- Priority Documents filed on 04/09/2005

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed

**P&T OFFICE ACKNOWLEDGEMENT**

ATTORNEY V.KOHLI		DATE 10/25/05
CASE NUMBER/ 21113P	SERIAL NUMBER 10/530,830	
DATE FILED 04/08/2005		
APPLICANT XIA ET AL.		
EXPRESS MAIL NO. -----		

The Patent & Trademark Office acknowledges, and has stamped hereon, the date of the receipt of the items checked below:

- ☐ AMENDMENT
- ☐ APPEAL AND FEE
- ☐ ASSIGNMENT
- ☐ BRIEF
- ☐ CERTIFICATE OF CORRECTION
- ☐ FINAL FEE
- ☐ LETTER
- ☐ REQUEST FOR F.F. LICENSE
- ☐ INFORMATION DISCLOSURE STATEMENT
- ☐ PTO 1449 & REFERENCES
- ☐ PETITION FOR EXTENSION OF TIME & FEE
- ☐ INVITATION TO CORRECT
- ☐ DEMAND-CHAPTER II & FEE SHEET

✓ Request for Correction of Filing Date; copy of Filing Receipt, copy of Express Mail Statement.

F4424

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